

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
No. 3:21-cv-00635

ERIC GARNER,)	
)	
)	
)	
Plaintiff,)	
)	
v.)	
)	
KILOLO KIJAKAZI,)	
)	ORDER
)	
)	
Acting Commissioner of)	
Social Security)	
)	
Defendant.)	
)	
_____)	

Plaintiff's counsel filed a motion for approval of attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the net amount of \$6,852.00. Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant's past-due benefits. Plaintiff previously has been awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$4,125. Defendant filed a response, stating that, under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee. Upon consideration of the motion,

IT IS HEREBY ORDERED that George C. Piemonte, Esquire be awarded a net fee under 42 U.S.C. § 406(b) in the net amount of \$6,852.00. Plaintiff's counsel has calculated the requested net fee by subtracting the amount of the EAJA already paid to counsel as under the EAJA counsel is required to fund to Plaintiff the EAJA if smaller than the amount awarded. The subtraction from the requested amount is intended to accomplish this.

Signed: December 20, 2023

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

